

Application No. 10/058,677
Amendment Dated November 17, 2005
Reply to Office Action of September 6, 2005

REMARKS/ARGUMENTS:

Claims 1-24 are pending of which claims 1-16 are withdrawn. Claims 17 and 22 are further amended for antecedent basis reasons.

Claims 17, 18, 19, 20 and 22 were rejected as being obvious to a skilled artisan over US 4,094,295 to Boswell et al and US 4,512,249 to Mentzel. The rejection is respectfully traversed.

The claimed apparatus is configured to make charcoal and thus would not read on conventional charcoal grilles that burn charcoal, but which do not make charcoal. The two types of structures are not the same.

The Office Action considers the "base" in Boswell et al to be both the base pan 12 and body 14, even though they are separate components. The Office Action does this since otherwise it clearly would not fall under the claim scope since the base pan 12 is closed at the bottom, which contrasts with the recitation of the independent claims 17 and 22.

Next, the Office Action considers the rolled bead 56 of Boswell et al to be the equivalent to the recited shelf on which rests the cover. However, Boswell et al actually identifies its clips 76 as having a supporting ledge 86 on which sits the lid 16 as opposed to on the bead 56.

This is an important distinction since the recitation of Claim 17 sets forth the following dimensional constraints that allows the cover to fit with the base:

**The shelf defining an inside area smaller than the outside area
of the cover bottom.**

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--- Such is not the case in Boswell et al., unless the bead 56 is treated as the shelf rather than the supporting ledge 86. This explains why the Office Action chose the bead 56. However, the bead 56 does not allow the cover to be rested upon it in contrast to the claim recitation:

**The base having a bottom defining an inside area larger than
the outside area of the cover bottom.**

-- Boswell et al has this relationship if the base is both the body 14 and the base pan 12. However, if the "base" is only the body 14 and not the base pan 12, then Boswell et al lacks this claimed feature. Note that only the body 14 has an open top and bottom, which is how the independent claims 17 and 22 recite the base.

**The cover having an elevation distance smaller than that of the
base.**

-- If the base of Boswell et al is either the body 14 or the combination of base pan 18 and body 14, then Boswell et al has this feature. Otherwise, if the base is only the base pan 12, Boswell et al lacks this feature.

The Office Action finds no patentable invention in the use of more than one air channel beneath the base as recited versus Boswell et al using a single air channel 24. Of course, such a plurality would be necessary for attaining uniform air flow in the making of charcoal in the early stages. It would not be obvious to modify a grille that burns charcoal having a single air channel into one with a plurality of air channels to provide uniform air flow suit for the making of charcoal.

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Finally, the Office Action recognized that Boswell et al lacks a vent in its lid and thus turns to the Mentzel patent to make up for this deficiency. Neither patent pertains to apparatuses that make, as opposed to burn, charcoal and thus the reasons for providing a lid in the making of charcoal are not present in the case of burning charcoal.

Claim 21 was rejected over Boswell, Mentzel and Jolin (US 2,956,933). Claims 23 and 24 were further rejected over Boswell, Mentzel and Doolittle (US 5,165,385). Jolin reveals cylindrical kiln cut longitudinally in half (hemisphere). Doolittle reveals a grille on wheels. These patents do not render obvious the subject matter of these claims. In particular, the nested stacking arranged recited in claim 24 as exemplified by Fig. 1 is not revealed.

CORRESPONDENCE AND FEES:

In the event that there are fees necessitated by this response, authorization is hereby given to charge Deposit Account No. 03-3839. Please address all correspondence to Intellectual Property Docket Administrator, Gibbons, Del Deo, Dolan, Griffinger & Vecchione, One Riverfront Plaza, Newark, NJ 07102-5497. Should there be any questions or other matters that may be resolved by a telephone call, the Examiner is invited to contact the applicants' undersigned attorney at the number below. Any communications should be sent directly to him at the number below.

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Respectfully submitted,

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